IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 33320 of 2006(N)

PETITIONER:

VIJI MAMMEN,
W/O.V.T.MAMMEN, VADAKETHU HOUSE,
KURIYANNOOR P.O., THOTTAPPUZHASSERY VILLAGE,
THIRUVALLA, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR,
PATHANAMTHITTA.

2. THE DEPUTY TAHSILDAR (R/R),
TALUK OFFICE, THIRUVALLA.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF DEMAND NOTICE DT.8.11.2006 FOR THE ASSESSMENT YEAR 1988-89.

P2: .DO. 1989-90.

P3: .DO. 1990-91.

P4: .DO. 1991-92.

P5: .DO. 1992-93.

P6: .DO. 1993-94.

P7: .DO. 1994-95.

P8: .DO. 1995-96.

P9: TRUE COPY OF NOTICE ISSUED BY R2 TO THE PETITIONER DT.8.11.2006 FOR ASSESSMENT YEAR 1988-89.

P10: .DO. 1989-90.

P11: .DO. 1990-91.

P12: .DO. 1991-92.

P13: .DO. 1992-93.

P14: .DO. 1993-94.

P15: .DO. 1994-95.

P16: .DO. 1995-96.

P17: TRUE COPY OF REPRESENTATION SUBMITTED BY PETITIONER BEFORE THE RESPONDENTS ON 18.11.2006.

P18: TRUE OCPY OF PROCEEDINGS OF THE REGISTRAR OF COMPANIES.

P18(a): CERTIFIED COPY OF THE PROCEEDIGNS OF THE REGISTRAR OF COMPANIES.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.33320 of 2006

.....

Dated this the 29th day of June, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of sales tax due from a company of which petitioner was a director. Going by petitioner's own statement, petitioner is also liable for the first three years i.e. 1988-89, 1989-90 and 1990-91. The petitioner has not furnished details of any other directors or the address of the company. Even though Section 26C was introduced only subsequently with effect from 1.4.1999, the Supreme Court has in many cases held that beneficiaries covered by the corporate veil can be identified and personal recovery can be made against them unless they show the assets of the company. Since the details of the company or the directors of the company are not on record, it is for the recovery authorities to collect the same from assessment files and proceed for recovery. If collected tax is not remitted, then Department authorities are free to initiate appropriate proceedings as the same amounts to misappropriation of collected tax. The W.P. is accordingly disposed of directing the District Collector to co-ordinate with the Deputy Commissioner of Commercial Taxes and proceed for recovery in

accordance with K.G.S.T. Act, Revenue Recovery Act and general law of the land. The petitioner can raise all the objections before the District Collector against personal recovery.

C.N.RAMACHANDRAN NAIR
Judge

pms